

REMARKS

This Amendment is submitted in response to the Office Action dated August 25, 2004. In the Office Action, the Patent Office rejected Claims 1-8, 9-14, 16 and 17 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Moreover, the Patent Office rejected Claims 1, 3, 6 and 8 under 35 U.S.C. §102(b) as being anticipated by *Drummond* (U.S. Patent No. 2,159,322). Further, the Patent Office rejected Claims 1-4, 6-8, 9-12, 14 and 15-19 under 35 U.S.C. §102(b) as being clearly anticipated by *Bennett et al.* (U.S. Patent No.: D458,070 patent). Still further, the Patent Office rejected Claims 9, 12, 15 and 20 under 35 U.S.C. §102(b) as being anticipated by *Modrey* (U.S. Patent No.: 2,889,050). Moreover, the Patent Office rejected Claims 2, 5 and 16-19 under 35 U.S.C. §103(a) as being unpatentable over *Bennett et al.* (U.S. Patent No. D458,070).

Applicant notes with appreciation that the Patent Office indicated that Claim 13 would be allowable if re-written to overcome the rejections under 35 U.S.C. §112, second paragraph, and to include all of the limitations of the base claim and the intervening claims. To this end, Applicant has incorporated Claim 13 into independent Claim 1. Applicant submits that Claim 1 and

its dependent claims are now in condition for allowance. Notice to that effect is requested.

The Patent Office rejected Claims 1, 3, 6 and 8 under 35 U.S.C. §102(b) as being anticipated by *Drummond* (U.S. Patent No.: 2,159,322). The Patent Office alleges that *Drummond* shows first and second parallel sides, a flat back side and a front side with a plurality of curves, and a plurality of hooks thereon. The rejection is respectfully traversed in view of the amendments and for the reasons that follow.

Amended Claim 1 requires an apparatus for hanging keys, the apparatus having a key rack having a first side and a second side wherein the first side and the second side are parallel to each other and a third side and a fourth side wherein the first side and the second side connect to the third side and the fourth side. Moreover, amended Claim 1 further requires a front side and a back side wherein the back side is generally flat for attachment to a surface and further wherein the front side has a plurality of curves from the first side to the second side and a plurality of hooks formed on the front side of the key rack.

Further, amended Claim 1 requires a first tier of hooks wherein said first tier of hooks is horizontally offset from

a second tier of hooks and further wherein the first tier of hooks and the second tier of hooks projects away from the key rack.

*Drummond* teaches an invention for racking keys by arranging the tags of the key in the racked assembly in such relation that they only partially overlap each other, leaving a side or top edge, either or both, containing the identification marking, clearly in view, so that the key desired may be instantly located at a glance.

However, *Drummond* does not teach or suggest a first side and a second side wherein the first side and the second side are parallel to each other and a third side and a fourth side wherein the first side and the second side connect to the third side and the fourth side. Moreover, *Drummond* does not teach or suggest a first tier of hooks wherein said first tier of hooks is horizontally offset from a second tier of hooks and further wherein the first tier of hooks and the second tier of hooks projects away from the key rack.

Under 35 U.S.C. §102(b), anticipation requires that a single reference disclose each and every element of Applicant's claimed invention. *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986).

Moreover, anticipation is not shown even if the differences between the claims and the reference are "insubstantial" and one skilled in the art could supply the missing elements. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d. 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984).

With respect to the Patent Office rejection of Claims 1-4, 6-8, 9-12, 14 and 15-19 under 35 U.S.C. §102(b) as being anticipated by *Bennett et al.*, and the Office's rejection of Claims 8, 12, 15 and 20 under 35 U.S.C. §102(b) as being anticipated by *Modrey*; Applicant respectfully submits that the rejection has been overcome by the amendment to the independent Claims 1, 9 and 15 and for the reasons below.

Amended Claim 1 requires an apparatus for hanging keys, the apparatus having a key rack having a first side and a second side wherein the first side and the second side are parallel to each other and a third side and a fourth side wherein the first side and the second side connect to the third side and the fourth side. Moreover, amended Claim 1 further requires a front side and a back side wherein the back side is generally flat for attachment to a surface and further wherein the front side has a plurality of curves from the first side to the second side and a plurality of hooks formed on the front side of the key rack.

Further, amended Claim 1 requires a first tier of hooks wherein said first tier of hooks is horizontally offset from a second tier of hooks and further wherein the first tier of hooks and the second tier of hooks projects away from the key rack.

Amended Claim 9 requires a key rack having a first side and a second side wherein the first side and the second side are parallel to each other. The key rack has a third side and a fourth side wherein the first side and the second side connect to the third side and the fourth side and further wherein the third side and the fourth side are convex and concave. Moreover, the key rack has at least one hook being associated with the key rack.

Likewise, amended Claim 15 requires a method of using a key rack wherein the method requires: providing a key rack having a first side and a second side wherein the first side and the second side are parallel; providing a key rack having a third side and a fourth side wherein the third side and the fourth side are convex and concave and further wherein the first side and the second side connect to the third side and the fourth side; providing a first tier of hooks for receipt of an article that is horizontally offset

from the second tier of hooks for receipt of an article and further wherein the first tier and the second tier of hooks projects away from the key rack as required by amended Claim 1.

*Bennett et al.* does not teach or suggest a key rack having a first side and a second side wherein the first side and the second side are parallel to each other. Moreover, *Bennett et al.* does not teach or suggest the key rack having a third side and a fourth side wherein the first side and the second side connect to the third side and the fourth side and further wherein the third side and the fourth side are convex and concave as required by Claim 9.

Similarly, *Modrey* does not teach or suggest a method for using the curvy key rack, the method comprising the steps of: providing a key rack having a first side and a second side wherein the first side and the second side are parallel; providing a key rack having a third side and a fourth side wherein the third side and the fourth side are convex and concave and further wherein the first side and the second side connect to the third side and the fourth side; and

providing a first tier of hooks for receipt of an article that is horizontally offset from the second tier of hooks for receipt of an article and further wherein the first tier and the second tier of hooks projects away from the key rack as required by Claim 15.

Under 35 U.S.C. §102(b), anticipation requires that a single reference disclose each and every element of Applicant's claimed invention. *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986).

Moreover, anticipation is not shown even if the differences between the claims and the reference are "insubstantial" and one skilled in the art could supply the missing elements. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d. 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984).

In view of the foregoing remarks and amendments, the rejection of Claims 1-4, 6-8, 9-12, 14 and 15-19 under 35 U.S.C. §102(b) as being anticipated by *Bennett et al.*, and the Office's rejection of Claims 8, 12, 15 and 20 under 35 U.S.C. §102(b) as being anticipated by *Modrey*; have been overcome and should be withdrawn. Notice to that effect is requested.

As to the rejection of Claims 2, 5 and 16-19 under 35 U.S.C. §103(a) as being unpatentable over *Bennett et al.*, Applicant respectfully submits that the amendments to Claims 1 and 15

overcome the rejected to the above identified claims. Applicant submits that the rejection has been overcome and should be withdrawn. Notice to that effect is requested.

More specifically, Applicant submits that *Bennett et al.* does not teach or suggest a key rack having a first side and a second side wherein the first side and the second side are parallel to each other. Moreover, *Bennett et al.* does not teach a key rack having a third side and a fourth side wherein the first side and the second side connect to the third side and the fourth side and a first tier of hooks wherein said first tier of hooks is horizontally offset from a second tier of hooks and further wherein the first tier of hooks and the second tier of hooks projects away from the key rack.

It is submitted that the question under §103 is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. In re Simon, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most if not all elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of the teaching of the reference,

would have been obvious to one of ordinary skill in the art at the time the invention was made. Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

It is insufficient that the art disclosed components of Applicants' invention. A teaching, suggestion, or incentive must exist to make the combination made by Applicants. Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1988).

In view of the foregoing remarks and amendments, the rejection of Claims 2, 5 and 16-19 over *Bennett et al* under 35 U.S.C. §103(a) have been overcome and should be withdrawn. Notice to that effect is requested. Applicant asserts that no new matter has been added by the present amendment. As is clearly indicated in the drawings, the third and fourth sides are concave and convex.

Claims 2-8 depend from Claim 1; Claims 10-14 depend from Claim 9; and Claims 16-20 depend from Claim 15. These claims are further believed allowable over *Drummond, Bennett et al.* and/or *Modrey* for the same reasons set forth with respect to independent Claims 1, 9 and 15 since each sets forth additional novel components and steps of Applicant's key rack.

In view of the foregoing remarks, Applicant respectfully submits that all of the claims in the application are in allowable form and that the application is now in condition for

allowance. If any outstanding issues remain, Applicant urges the Patent Office to telephone Applicant's attorney so that the same may be resolved and the application expedited to issue. Applicant requests the Patent Office to indicate all claims as allowable and to pass the application to issue.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this **Amendment** is being deposited with the United States Postal Service as Express Mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 15, 2004.

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